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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

JOHN AMBLER and STACY  
AMBLER,

Plaintiffs,

vs.

FLATHEAD CONSERVATION  
DISTRICT,

Defendant.

CV 23-151-M-DLC-KLD

**JOINT DISCOVERY PLAN**

Pursuant to Fed. R. Civ. P. 26(f), Rule 16(b)(2) of the Local Rules of the United States District Court for the District of Montana, as well as this Court's Order dated December 13, 2023 (Dkt. No. 3), the parties jointly submit this Proposed Discovery Plan. The parties conferred on February 22, 2024.

## **I. INTRODUCTION**

Pursuant to Fed. R. Civ. P. 26(f), counsel for the parties conferred regarding a discovery plan. Counsel discussed the nature and basis of Plaintiffs' claims and Defendant's defenses. Counsel respectfully agreed that there is no possibility for settling or resolving this matter at this time. On behalf of the parties, Plaintiffs hereby provide the resulting Joint Discovery Plan, which Defendant has approved.

## **II. DISCOVERY PLAN**

The parties jointly propose to the Court the following discovery plan:

### **A. CHANGES IN TIME, FORM, OR REQUIREMENTS OF DISCLOSURE.**

The parties do not believe that initial disclosures are necessary under Fed. R. Civ. P. 26(a), (c) and (f), Local Rule 26.1(b), or the Court's December 13, 2023 Order. The parties do not otherwise anticipate the need for any change in the timing or form of disclosures under Fed. R. Civ. P. 26(a), (c) and (f), Local Rule 26.1(b), or the Court's October 24, 2022 Order. The parties' Fed. R. Civ. P. 26(f) conference took place on February 22, 2024.

**B. SUBJECTS ON WHICH DISCOVERY MAY BE NEEDED.**

The parties agree that this case likely involves only legal issues and that discovery will likely not be needed. The parties believe this case will likely be decided on summary judgment regarding statutory interpretation. If discovery becomes necessary, the parties intend to conduct discovery within the scope of the Federal Rules of Civil Procedure. The parties note that there is an extensive public record related to the Declaratory Ruling Process conducted by the Flathead Conservation District regarding this matter. The parties do not anticipate the need for experts.

The parties do not believe discovery should be conducted in phases or be limited beyond the provisions of the Federal Rules of Civil Procedure. If any party needs additional information, the usual discovery methods will be employed.

**C. ISSUES REGARDING DISCLOSURE, DISCOVERY, OR PRESERVATION OF ELECTRONICALLY STORED INFORMATION.**

The parties agree that any data kept electronically may be produced in its original form, in .pdf format, on paper, or in any format on which the parties mutually agree for the data at issue. The parties shall take reasonably necessary steps to assure that electronic data that now exists is not deleted by the passage of time or is otherwise destroyed or rendered irretrievable.

**D. PRIVILEGE AND PROTECTION ISSUES.**

The parties stipulate to the foundation and authenticity of all discovery items produced in pre-trial disclosures and during the course of discovery. If a party objects to either the foundation or the authenticity of a particular discovery item, then the party must make specific objection to the opposing party, in writing, within 30 days of service of the discovery item. If a discovery item is produced and the producing party objects either to its foundation or authenticity, the producing party shall so state, in writing, at the time of production. The parties propose that any claims of privilege or of protection for materials prepared in anticipation of litigation or for trial are to be made at the time a discovery response or document production is made. The parties further agree to employ and be bound by the procedures set forth in Fed. R. Evid. 502 regarding limitations on waiver of the attorney-client privilege and work product materials.

**E. CHANGES IN LIMITATION ON DISCOVERY.**

The parties do not request any changes in the limitations on discovery imposed under the Federal Rules of Civil Procedure or by the Local Rules of the United States District Court for the District of Montana other than as set forth herein. Any requested changes will be made pursuant to Fed. R. Civ. P. 26(b)(2).

**F. DISCOVERY SCHEDULE.**

The parties propose the following discovery schedule, subject to discussion and modification at the Preliminary Pretrial Conference:

1. The parties shall serve their initial disclosures, if required, on or before **April 26, 2024**.
2. The parties have until **April 26, 2024**, to join additional parties and amend pleadings.
3. The parties do not anticipate a need for experts or expert discovery.
4. All discovery shall be commenced in time to be completed by **July 26, 2024**.
5. All other dates, including motions deadlines, pretrial order submission, and trial dates, are left to the discretion of the Court for setting at the Preliminary Pretrial Conference scheduled for **March 26, 2024**.

**G. ANY OTHER ORDERS PURSUANT TO RULE 26 OR 16.**

The parties do not presently require any other orders be issued under Fed. R. Civ. P. 26(c) or under Fed. R. Civ. P. 16(b) and (c). Counsel for the parties have conferred and agree to the submission of this Joint Discovery Plan. Pursuant to United States District Court for the District of Montana

Local Rule 11.2.(a)(1) and (3), counsel for Defendant consents to the electronic filing of this Joint Discovery Plan by the Plaintiffs.

DATED this 12<sup>th</sup> day of March, 2024.

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DATED this 12<sup>th</sup> day of March, 2024.

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